

\*\*E-filed 10/13/06\*\*

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Attorneys for Plaintiff Kelley Bergman  
 Derivatively on Behalf of Apple Computer, Inc.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN JOSE DIVISION

NICHOLAS KARANT, et al.,  
 Derivatively on Behalf of Nominal Defendant  
 APPLE COMPUTER, INC.,  
  
 Plaintiff,  
  
 vs.  
  
 STEVEN P. JOBS, et al.,  
  
 Defendants,  
  
 -and-  
  
 APPLE COMPUTER, INC.,  
  
 Nominal Defendant.

Case No. C-06-04128-JF

STIPULATION AND [PROPOSED]  
 ORDER (1) CONSOLIDATING  
 CASES, (2) SETTING SCHEDULE  
 FOR CONSOLIDATED  
 COMPLAINT, AND (3)  
 CONTINUING INITIAL CASE  
 MANAGEMENT CONFERENCE

[Caption continued on following page]

DOUGLAS HOLBERT, Derivatively on  
Behalf of APPLE COMPUTER, INC.,

Plaintiff,

vs.

FRED D. ANDERSON, et al.,

Defendants,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-04454-JF

PIRELLI ARMSTRONG TIRE  
CORPORATION RETIREE MEDICAL  
BENEFITS TRUST, Derivatively on Behalf of  
APPLE COMPUTER, INC.,

Plaintiff,

vs.

FRED D. ANDERSON, et al.

Defendants,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-04493-JF

JEFFREY ALECCI, Derivatively on Behalf of  
APPLE COMPUTER, INC.,

Plaintiff,

vs.

FRED D. ANDERSON, et al.,

Defendant,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-04649-JF

MICHAEL PRIEBE and CYNTHIA PRIEBE,

Plaintiff,

vs.

STEVEN P. JOBS, et al.,

Defendants,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-04703-JF

PHYLLIS JONES,

Plaintiff,

vs.

FRED D. ANDERSON, et al.,

Defendants,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-05035-JF

ISABEL LUI,

Plaintiff,

vs.

STEVEN P. JOBS, et al.,

Defendant,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-05246-JF

KELLEY BERGMAN, Derivatively on Behalf  
of APPLE COMPUTER, INC.,

Plaintiff,

vs.

FRED D. ANDERSON, et al.,

Defendant,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No.: C-06-05374-JF

ALFRED RONCONI, Derivatively on Behalf  
of APPLE COMPUTER, INC.,

Plaintiff,

vs.

STEVEN P. JOBS., et al.,

Defendant,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-05389-JF

FEIVEL GOTTLIEB, Derivatively on Behalf  
APPLE COMPUTER, INC.,

Plaintiff,

vs.

STEVEN P. JOBS, et al.,

Defendants,

-and-

APPLE COMPUTER, INC.,

Nominal Defendant.

No. C-06-05418-RMW

1 ERICK GULSRUD, Derivatively on Behalf of )  
2 Nominal Defendant APPLE COMPUTER, )  
INC., )

3 Plaintiff, )

4 vs. )

5 FRED D. ANDERSON, et al., )

6 -and- )

7 APPLE COMPUTER, INC., )

8 Nominal Defendant. )  
9 \_\_\_\_\_ )

No. C-06-05427-RS

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WHEREAS, there are currently at least eleven shareholder derivative actions on behalf of nominal defendant Apple Computer, Inc., (“Apple”) pending in the Northern District of California.

Abbreviated Case Name	Case Number	Date Filed
<i>Karant v. Jobs, et al.</i>	C-06-04128-JF	06/30/06
<i>Holbert v. Anderson, et al.</i>	C-06-04454-JF	07/20/06
<i>Pirelli Armstrong Tire Corporation Retiree Medical Benefits Trust v. Anderson, et al.</i>	C-06-04493-JF	07/24/06
<i>Alecci v. Anderson, et al.</i>	C-06-04659-JF	07/31/06
<i>Priebe v. Jobs, et al.,</i>	C-06-04703-JF	08/02/06
<i>Jones v. Anderson, et al.</i>	C-06-05035-JF	08/22/06
<i>Lui v. Jobs, et al.</i>	C-06-05246-JF	08/25/06
<i>Bergman v. Anderson, et al.,</i>	C-06-05374-JF	08/31/06
<i>Ronconi v. Jobs, et al.,</i>	C-06-05389-JF	08/31/06
<i>Gottlieb v. Jobs, et al.,</i>	C-06-05418-RMW	09/01/06
<i>Gulsrud v. Anderson, et al.,</i>	C-06-05427-RS	09/01/06

WHEREAS, the Court has previously determined that all of the Apple derivative actions identified above, with the exception of the *Gottlieb* and *Gulsrud* actions more recently filed, are related pursuant to Local Rule 3-12(a) and all have been assigned to Judge Fogel; and

WHEREAS, the Apple shareholder derivative actions identified above all arise out of the same transactions and occurrences and involve the same or substantially similar issues of law and facts, and, therefore, should be consolidated for all purposes under Fed. R. Civ. P. 42(a);

WHEREAS, counsel for plaintiffs, nominal defendant Apple, and certain individual defendants have met and conferred and have agreed to a schedule for filing a consolidated complaint and for briefing any motion directed at the consolidated complaint;

WHEREAS, several plaintiffs have filed motions to be appointed lead plaintiff and the motions are scheduled for hearing on October 20, 2006;

WHEREAS, the parties have met and conferred and believe the interest of judicial economy will be served by continuing the initial case management conference to December 8, 2006 at 10:30 a.m., or as soon thereafter as the Court's calendar permits; and

WHEREAS, the agreed-upon schedule is not for the purpose of delay, promotes judicial efficiency, and will not cause prejudice to any party.

THEREFORE, IT IS STIPULATED AND AGREED by plaintiffs and the identified defendants, through their respective counsel of record, as follows:

# **I. CONSOLIDATION OF ACTIONS**

1. The following actions are hereby consolidated for all purposes, including pretrial proceedings, trial and appeal;

Abbreviated Case Name	Case Number	Date Filed
<i>Karant, et al. v. Jobs, et al.</i>	C-06-04128-JF	06/30/06
<i>Holbert v. Anderson, et al.</i>	C-06-04454-JF	07/20/06
<i>Pirelli Armstrong Tire Corporation Retiree Medical Benefits Trust v. Anderson, et al.</i>	C-06-04493-JF	07/24/06
<i>Alecci v. Anderson, et al.</i>	C-06-04659-JF	07/31/06
<i>Priebe v. Jobs, et al.,</i>	C-06-04703-JF	08/02/06
<i>Jones v. Anderson, et al.</i>	C-06-05035-JF	08/22/06
<i>Lui v. Jobs, et al.</i>	C-06-05246-JF	08/25/06
<i>Bergman v. Anderson, et al.,</i>	C-06-05374-JF	08/31/06
<i>Ronconi v. Jobs, et al.,</i>	C-06-05389-JF	08/31/06
<i>Gottlieb v. Jobs, et al.,</i>	C-06-05418-RMW	09/01/06
<i>Gulsrud v. Anderson, et al.,</i>	C-06-05427-RS	09/01/06

2. The caption of these consolidated actions shall be "In re Apple Computer, Inc. Derivative Litigation" and the files of these consolidated actions shall be maintained in one file under Master File No. C-06-04128-JF. Any other actions now pending or later filed in this Court which arise out of or are related to the same facts as alleged in the above-identified cases shall be consolidated for all purposes, if and when they are brought to the Court's attention.

3. Every pleading filed in the consolidated actions, or in any separate action included herein, shall bear the following caption:

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

In re APPLE COMPUTER, INC.,  
DERIVATIVE LITIGATION

Master File No. C-06-04128-JF

\_\_\_\_\_  
This Document Relates To:  
\_\_\_\_\_  
\_\_\_\_\_

4. When a pleading is intended to be applicable to all actions governed by this Order, the words "All Actions" shall appear immediately after the words "This Document Relates To:" in the caption set out above. When a pleading is intended to be applicable to only some, but not all, of the consolidated actions, this Court's docket number for each individual action to which the pleading is intended to be applicable and the abbreviated case name of said action shall appear immediately after the words "The Document Relates To:" in the caption described above (e.g. "No. C-06-04128 JF, *Karant, et al., v. Jobs, et al.*").

5. A Master Docket and a Master File hereby are established for the above-consolidated proceedings and for all other related cases filed in or transferred to this Court. Separate dockets shall continue to be maintained for each of the individual actions hereby consolidated, and entries shall be made in the docket for each individual case in accordance with the regular procedures of the clerk of this Court, except as modified by this Order.

6. When a pleading is filed and the caption shows that it is applicable to "All Actions," the clerk shall file such pleading in the Master File and note such filing on the Master Docket. No further copies need be filed, and no other docket entries need be made.



7. When a pleading is filed and the caption shows that it is to be applicable to fewer than all of the consolidated actions, the clerk will file such pleading in the Master File only but shall docket such filing on the Master Docket of each applicable action.

8. When a case which properly belongs as part of *In re Apple Computer, Inc.*, *Derivative Litigation* is filed in this Court or transferred to this Court from another court and assigned to Judge Fogel, the clerk of this Court shall:

- (a) Place a copy of this Order in the separate file for such action;
- (b) Mail to the attorneys for the plaintiff(s) in the newly filed or transferred case a copy of this Order and direct that this Order be served upon or mailed to any new defendant(s) or their counsel in the newly filed or transferred case; and
- (c) Make an appropriate entry on the Master Docket. This Court requests the assistance of counsel in calling to the attention of the clerk of this Court the filing or transfer of any case which properly might be consolidated as part of *In re Apple Computer, Inc.*, *Derivative Litigation*.

## II. SCHEDULE

9. The case management conference is continued until December 8, 2006 at 10:30 a.m.

10. The case management statement shall be due on December 1, 2006.

11. Plaintiffs shall, no later than 45 days from the entry of an Order appointing lead plaintiff and lead counsel, file and serve a consolidated complaint which will supersede all existing complaints filed in these actions. Defendants need not respond to any of the pre-existing complaints. Service shall be effected with respect to any named defendant who has already been served with any of the pre-existing complaints in any of the consolidated actions by serving the consolidated complaint on that defendant's counsel.

12. Each defendant who has been served shall answer or otherwise respond to the consolidated complaint no later than 45 days from the date of service. In the event that defendants file and serve any motions directed at the consolidated complaint, plaintiffs shall file

and serve their opposition within 30 days after the service of defendants' motions. If defendants file and serve a reply to plaintiffs' opposition, they will do so within 15 days after service of the opposition.

13. Defendants' counsel may rely upon all agreements made with any Lead Counsel appointed by the Court, and such agreements shall be binding on all derivative plaintiffs. Defendants may satisfy their service obligations by serving the Lead Counsel.

IT IS SO STIPULATED.

Dated: October 11, 2006

COTCHETT PITRE SIMON & McCARTHY  
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I, Mark C. Molumphy, am the ECF user whose ID and password is being used to file this STIPULATION AND [PROPOSED] ORDER. In compliance with General Order 45, X, B., I hereby attest that Sean Handler has concurred with this filing.

Dated: October 11, 2006

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Benefits Trust, and Jeffrey Alecci

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1 Dated: October 11, 2006

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22 STIPULATION AND [PROPOSED] ORDER. In compliance with General Order 45, X, B., I  
23 hereby attest that Peter A. Binkow has concurred with this filing.

24 Dated: October 11, 2006

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hereby attest that Juli E. Farris has concurred with this filing.

Dated: October 11, 2006

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Attorneys for Plaintiff Isabel Lui

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hereby attest that Arthur R. Shingler has concurred with this filing.

Dated: October 11, 2006

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hereby attest that Joy Kruse has concurred with this filing.

1 Dated: October 11, 2006

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12 STIPULATION AND [PROPOSED] ORDER. In compliance with General Order 45, X, B., I  
13 hereby attest that Jeffrey F. Keller has concurred with this filing.

14 Dated: October 11, 2006

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16 /s/  
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Attorneys for Plaintiff Erick Gulsrud

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27 this STIPULATION AND [PROPOSED] ORDER. In compliance with General Order 45, X.B.,  
28 I hereby attest that Sarina Hinson has concurred in this filing.

1 Dated: October 11, 2006

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11 Ellison, Frederick Forsyth, Albert Gore, Steven P.  
Jobs, Ronald B. Johnson, Arthur D. Levinson,  
12 Mitchell Mandich, Peter Oppenheimer, Jonathan  
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13 York

14 I, Mark C. Molumphy, am the ECF user whose ID and password is being used to file this  
15 STIPULATION AND [PROPOSED] ORDER CONSOLIDATING CASES FOR ALL  
16 PURPOSE. In compliance with General Order 45, X, B., I hereby attest that Dale Edmondson  
17 has concurred with this filing.

18  
19 **ORDER**

20 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

21 Dated: 10/13/06

  
22 THE HONORABLE JEREMY FOGEL  
23 UNITED STATES DISTRICT JUDGE